

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA, *ex rel.* :
RONALD J. STRECK, :
v. : CIVIL ACTION NO. 13-7547
BIOVAIL PHARMACEUTICALS, INC. : FILED UNDER SEAL
n/k/a VALEANT PHARMACEUTICALS :
INTERNATIONAL, INC., et al. :

ORDER

The United States and certain of the plaintiff states¹ having declined to intervene in this action, pursuant *inter alia* to the False Claims Act, 31 U.S.C. § 3730(b)(4)(B) and pursuant to the respective state statutes of the plaintiff states, the Court rules as follows:

IT IS ORDERED that only the Complaint, including all exhibits, be unsealed and served upon the defendants.

IT IS FURTHER ORDERED that all other contents of the Court's file in this action remain under seal and not be made public or served upon the defendant, except for this Order and the Government's Notice of Election to Decline Intervention, which relator shall serve upon the defendants only after service of the Complaint. The seal shall be lifted as to all other matters occurring in this action after the date of this Order.

All Orders of this Court shall be sent to the United States, and the parties are further ordered to serve all pleadings and motions in this action, including supporting memoranda, and all notices of appeal, upon the United States, as provided for in 31 U.S.C. § 3730(c)(3). The

¹ For purposes of this order, the Plaintiff States include: California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Jersey, New Mexico, North Carolina, Oklahoma, Rhode Island, Tennessee, Texas, Washington, Wisconsin, Virginia and the District of Columbia.

United States may order any deposition transcripts and is entitled to intervene in this action at any time for good cause.

Should the relator or the defendants propose that this action be dismissed, settled, or otherwise discontinued, the Court will solicit the written consent of the United States before ruling or granting its approval. Any dismissal of this action, or any part of this action, shall be without prejudice as to the United States unless the United States consents to dismissal with prejudice.²

IT IS SO ORDERED,

This _____ day of _____, 2017.

BY THE COURT:

HON. TIMOTHY J. SAVAGE
Judge, United States District Court

² In accordance with the terms of the Maryland False Health Claims Act, Md. Code Ann., Health Gen, § 2-604 (a)(7), the State of Maryland having declined to intervene in this matter, all claims asserted on behalf of Maryland are hereby dismissed without prejudice.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

PLAINTIFF UNDER SEAL

FILED UNDER SEAL

v.

CIVIL ACTION NO. 13-7547

DEFENDANT UNDER SEAL

:

**UNITED STATES' NOTICE OF ELECTION
TO DECLINE INTERVENTION**

**LOUIS D. LAPPEN
Acting United States Attorney**

**MARGARET L. HUTCHINSON
Chief, Civil Division**

**ERIC D. GILL
Assistant United States Attorney
615 Chestnut Street, Suite 1250
Philadelphia, PA 19106
215-861-8250**

FILED UNDER SEAL

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA, *ex rel.* :
RONALD J. STRECK, :
v. : CIVIL ACTION NO. 13-7547
BIOVAIL PHARMACEUTICALS, INC. :
n/k/a VALEANT PHARMACEUTICALS :
INTERNATIONAL, INC., et al. :
: **FILED UNDER SEAL**

**UNITED STATES' AND PLAINTIFF STATES' NOTICE
OF ELECTION TO DECLINE INTERVENTION**

The United States, pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(4)(B), and certain of the plaintiff states,¹ pursuant to their respective state statutes, notify the Court of their intention not to intervene in this action.

Although the United States and the plaintiff states decline to intervene, we respectfully refer the Court to the False Claims Act, which allows the relator to maintain the action in the name of the United States, providing, however, that the “action may be dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting.” 31 U.S.C. § 3730(b)(1) (emphasis added). Any dismissal should be without prejudice to the United States and to the plaintiff states.²

¹ For purposes of this notice, the plaintiff states include: California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Jersey, New Mexico, North Carolina, Oklahoma, Rhode Island, Tennessee, Texas, Washington, Wisconsin, Virginia and the District of Columbia.

² In particular, the Maryland False Health Claims Act provides that ‘If the State does not elect to intervene and proceed with the action . . . before unsealing the complaint, the court shall dismiss the action.’ Md. Code Ann., Health Gen, § 2-604 (a)(7). Accordingly, the State of Maryland requests that all claims asserted on behalf of the State of Maryland be dismissed without prejudice.

Therefore, the United States requests that, should either the relator or the defendants propose that this action be dismissed, or otherwise discontinued, the Court first solicit the written consent of the United States before ruling or granting its approval.

Furthermore, pursuant to 31 U.S.C. § 3730(c)(3), the United States requests that all Orders of the Court and pleadings filed in this action be served upon the United States. The United States also requests that it be served with all notices of appeal. The United States reserves its right to order any deposition transcripts and to intervene in this action at a later date for good cause.

Finally, the United States and the plaintiff states request that only the Complaint, including exhibits, and this notice be unsealed, which relator should serve upon the defendants. All other contents of the Court's file in this matter (including, but not limited to, any motions filed by the United States for an extension of the sixty-day investigative period or for any other reason) should remain under seal because in discussing the content and the extent of the United States' investigation, such papers are provided by law to the Court alone for the sole purpose of evaluating whether the seal and time for making an election to intervene should be extended.

A proposed order accompanies this notice.

Dated: October 6, 2017

Respectfully submitted,

LOUIS D. LAPPEN
Acting United States Attorney

MARGARET L. HUTCHINSON

Chief, Civil Division
Assistant United States Attorney

ERIC D. GILL
Assistant United States Attorne

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of October 2017, I caused a copy of the foregoing United States' Notice of Election to Decline Intervention, to be served by first class mail, postage prepaid, upon:

Daniel R. Miller, Esq.
Joy Clairmont, Esq.
BERGER & MONTAGUE, P.C.
1622 Locust Street
Philadelphia, PA 19103

Jackson Martin, Esq.
P.O. Box 16687
Washington, DC 20041

Attorneys for Relator

Jeffrey Toll
Justin Draycott
U.S. Department of Justice
Frauds Division
601 D Street, NW
Room 9014
Washington, DC 20530

Steven K. McAllister
Special Deputy Attorney General
Medicaid Investigation Division
Attorney General's Office
North Carolina Dept. of Justice
5505 Creedmoor Road, Suite 300
Raleigh, NC 27612



ERIC D. GILL
Assistant United States Attorney